

Patrick K. McDonnell [ProSe]  
20 Rawson Place  
Staten Island, New York 10314  
Telephone: (718) 524-6312  
Email: [cdm@gmx.us](mailto:cdm@gmx.us)

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ JUL 18 2018 ★  
BROOKLYN OFFICE

July 17, 2018

BY ECF

The Honorable Jack B. Weinstein  
United States District Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
E. Brooklyn, New York 11201

F + Docket  
J.B. Weinstein  
7/18/18

**Re: *Commodity Futures Trading Commission v. Patrick K. McDonnell and CabbageTech, Corp. d/b/a Coin Drop Markets*, No. 18-CV-00361 (JBW)(RLM)**

Dear Judge Weinstein:

I am a ProSe litigant in the above captioned matter writing regarding [**Docket #139 styled Motion To Dismiss For Insufficient Evidence**]. I submitted further ECF filings July 16, 2018 to Plaintiff for courtesy upload to be styled as "**Supplemental Attachments**" and was told the system will only accept the word "**Exhibits**". However, when I received my copies of ECF filings from Plaintiff they were done under the **Docket(s); #143, 143-1, 143-2, 143-3, and 144** vs "**Attached as Exhibit(s) to Docket #139**" as requested. *To further clarify Your Honor*, Docket(s); "#139-1 is [**Exhibit 1**]", "143 is [**Exhibit 2**]", "143-1 is [**Exhibit 3**]", "143-2 is [**Exhibit 4**]", "143-3 is [**Exhibit 5**]", and "144 is [**Exhibit 6**]" which "**collectively**" comprise my initial filings regarding **Docket #139**. I am very concerned that it is viewed in full and accurate completeness.

Grounds for dismissal; **Insufficient Evidence Lacking Burden Of Proof For Criminal Proceeding; Subject-matter jurisdiction** (pursuant to Rule 12 (b)(1), Fed. R. Civ. P.) and/or **Personal jurisdiction** (pursuant to Rule 12 (b)(2), Fed. R. Civ. P.) and **Failure to state a claim upon relief can be granted** (pursuant to Rule 12 (b)(6), Fed. R. Civ. P.)

Defendant is relying on **FEDERAL RULES OF CIVIL PROCEDURE Rule 41** and/or **FEDERAL RULES OF CIVIL PROCEDURE Rule 52(c)** regarding "**Plaintiff Insufficient Evidence**" and "**Failure To Carry A Burden Of Proof**" in presenting their case criminally. **The new provisions of Rule 52(c)**, authorize entry of judgment against the defendant as well as the plaintiff, and earlier than the close of the case of the party against whom judgment is rendered.

*A motion to dismiss under Rule 41 on the ground that a plaintiff's evidence is legally insufficient should now be treated as a motion for judgment on partial findings as provided in Rule 52(c).*

Respectfully Submitted,  
/s/ Patrick K. McDonnell [ProSe]  
Patrick K. McDonnell

2.